

REMARKS/ARGUMENTS

Status of Claims

Claims 1-20 are currently pending in the application. Claims 1, 8 and 15 have been amended. No claims have been added or cancelled. No new matter is added by these amendments. Therefore, claims 1-20 are present for examination. Claims 1, 8, and 15 are independent claims.

Prior to entry of this amendment, an office action mailed April 15, 2008, rejected claims 1-20 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Publication No. 2002/0152168 to Neofytides et al. ("Neofytides").

Claim Rejection Under 35 U.S.C. 103

Claims 1-20 have been rejected under 35 U.S.C. 103(a) as being obvious over Neofytides. Applicants respectfully request the Examiner to withdraw the rejection because the Examiner has failed to state a *prima facie* case of obviousness. Indeed, to establish a *prima facie* case of obviousness, all claim limitations must first be taught or suggested by the prior art. *See, e.g., DyStar Textilfarben GmbH & Co. Deutschland KG v. C.H. Patrick Co.*, 464 F.3d 1356, 1360 (Fed. Cir. 2006). Then, the Examiner must provide an explicit analysis supporting the rejection. *See KSR Int'l Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1741 (2007) ("a patent composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art"). While the Examiner can choose one of several exemplary rationales from the MPEP to support an obviousness rejection under *KSR*, all the rationales still require the Examiner to demonstrate that all the claim elements are shown in the prior art. *See MPEP* § 2143, Original Eighth Edition, August 2001, Latest Revision September 2007. Neofytides does not show all the claim elements.

In embodiments, the present invention provides a method for creating an open network stored benefit account. In embodiments, a purchaser funds an open network stored benefit account that is created for the benefit of a recipient. An example of an open network stored benefit account is a gift card from a particular branded credit card association, such as

VISA™. In embodiments, a first message is received at a first interface and includes a purchaser account identifier (e.g., a credit card number). The purchaser account identifier is used to fund a stored benefit account. For example, a credit charge is made to the purchaser's credit card account to fund the stored benefit account. A first message response is returned that can be used to determine if a first message response is consistent with the other account information and that the purchaser's account can validly fund the stored benefit account. A second message is received with the application interface, and the second message includes recipient account information. For example, a recipient enters his or her name, address, and other information for creating the stored benefit account. The stored benefit account is created with the recipient account information and is backed by an account issuer.

Claim 1:

Examiner attempted to argue, in the previous office action, that creating a stored benefit account is inherent in using a stored benefit account. Now the Examiner, in the present office action, argues that creation of the account in the manner recited in the claims is obvious.

Office Action, p. 4. (Furthermore, the Examiner notes within the method and system of Neofytides, “the *creation* of an open network stored account to be obvious.”) The Examiner states that “Neofytides encompasses the usage of a stored benefit account.” Office Action, p. 5. The Examiner essentially admits that Neofytides does not describe creating a stored benefit account. Rather, the Examiner asserts that “It would make sense then, that there would be an associated stored benefit account created for the usage of such account.” Office Action, p. 5. Again, the Examiner's argument appears to be summed up in the idea that if Neofytides includes a description of the use of a stored value account, then it would be obvious that Neofytides would create a stored value account using the method claimed in the present application. This assertion is also *non sequitur* and can be shown by the several missing limitations.

Missing Limitations:

In contrast to the claims, Neofytides does not create a stored benefit account but provides methods for transferring value using a stored benefit account. See Neofytides, ¶ [0021]

("The present invention facilitates online money transfers in or out of a user's stored value fund." (Emphasis added.)). Neofytides does not create the stored value fund as recited in the claims.

Missing Limitation: "receiving at an intermediate system, a first message to create the open network stored benefit account, the first message including a purchaser account identifier, the purchaser account identifier identifying a purchaser account, wherein the purchaser account identifier and other account information is entered by a purchaser with a web interface to create the stored benefit account"

Independent claim 1 requires "receiving at an intermediate system, a first message to create the open network stored benefit account, the first message including a purchaser account identifier, the purchaser account identifier identifying a purchaser account, wherein the purchaser account identifier and other account information is entered by a purchaser with a web interface to create the stored benefit account." Neofytides does not show a message being received from a purchaser with a purchaser account identifier to create stored value fund.

Neofytides shows a step to open an account (Step 512 of Fig. 5). The description of this step in Fig. 5 of Neofytides states only "If the payor 110 does not remain external to the system 100, an account is opened in step 512 when there is no existing account." Neofytides, ¶ [0052]. Or Neofytides states, "Where there is no account, one is opened by the payee 130 in step 512." Neofytides, ¶ [0057]. The other sections cited by the Examiner do not mention opening an account or what is received to accomplish opening an account. It is readily apparent that Neofytides does not describe creating a stored benefit account as recited in claim 1.

Rather, Neofytides shows a transfer from a stored value fund. See Neofytides, ¶ [0021] ("A period expiring and/or a threshold amount being met can cause the transfer of money in or out of the stored value fund." (Emphasis added.)). Therefore, Neofytides does not teach receiving a first message including a purchaser account identifier to create a stored value account. Claim 1 is allowable over Neofytides for at least this reason.

Missing Limitation: “the intermediate system determines from the first message response if the purchaser account associated with the purchaser account identifier can validly fund the stored benefit account”

Independent claim 1 also requires “the intermediate system determines from the first message response if the purchaser account associated with the purchaser account identifier can validly fund the stored benefit account.” Neofytides does not include an intermediate system and does not show a step of determining if the purchaser account (e.g., a credit card account of the purchaser) can fund the stored value benefit account. Rather, Neofytides simply adds money into the stored value account. See Neofytides, ¶ [0072] (“Where there is not sufficient funds in the stored value fund, processing *continues to step 816 to load funds.*” (*Emphasis added.*)). This process is different than determining if a purchaser account (e.g., a purchaser’s credit card account) can provide funds into the stored value account (e.g., determine whether the credit charge to the purchaser’s account is authorized) and does not require or include an intermediate system. Therefore, Neofytides does not teach the intermediate system determining whether the purchaser account can fund the stored value benefit account.

For at least this reason, claim 1 is allowable over the cited art.

Missing Limitation: “the intermediate system receiving a second message response with the application interface; the intermediate system processing the second message response, wherein: second message response includes recipient account information, the stored benefit account is created with the recipient account information”

Independent claim 1 “the intermediate system receiving a second message response with the application interface; the intermediate system processing the second message response, wherein: second message response includes recipient account information, the stored benefit account is created with the recipient account information.” Neofytides does not show such a step of receiving a second message with account information from a recipient and creating the stored value account with the account information from the recipient. In embodiments, the purchaser and the recipient are different entities. Thus, a purchaser can fund the stored benefit account for the benefit of the recipient.

Neofytides only describes credit card authorization messages that transfer money in or out of *an existing account*, not an account that is being created. See Neofytides, ¶ [0078].

These transaction messages in Neofytides are not the same. Therefore, Neofytides does not teach that the intermediate system receiving a second message that includes recipient account information or that the stored value account is created from the account information.

For at least this reason, claim 1 is allowable over the cited art.

Claims 2-7:

Claims 2-7 depend from allowable claim 1. Due to at least this dependency, claims 2-7 are also allowable over Neofytides.

Claims 8:

Claim 8 includes similar claim elements as those recited in claim 1. As such, claim 8 is also allowable over Neofytides for similar reasons.

Claims 9-14:

Claims 9-14 depend from allowable claim 8. Due to at least this dependency, claims 9-14 are also allowable over Neofytides.

Claims 15:

Claim 15 includes similar claim elements as those recited in claim 1. As such, claim 15 is also allowable over Neofytides for similar reasons.

Claims 16-20:

claims 16-20 depend from allowable claim 15. As such, due to at least this dependency, claims 16-20 are also allowable over Neofytides.

Therefore, all claims are allowable over Neofytides, and Applicants respectfully request Examiner to issue a notice of allowance at the earliest convenience.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested. Applicants do not acquiesce to any argument not specifically addressed herein. Rather, Applicants believe the amendments and arguments presented herein address all rejections.

Appl. No. 10/714,441
Amdt. dated July 15, 2008
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PATENT

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,



Tadd F. Wilson
Reg. No. 54,544

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834
Tel: 303-571-4000
Fax: 415-576-0300
T3W:s5s/slb
61419015 v1